

## Acey's dream: Attorneys for kids in need

Superior court judge sees it as an issue he 'can't let go'



Tribune/Barry Kough

Superior Court Judge William D. Acey is working to expand the rights of children who are involved in the legal system by ensuring that they all have an attorney working on their side.

Posted: Monday, October 28, 2013 12:00 am | *Updated: 12:24 am, Mon Oct 28, 2013.*

Lweiston Tribune

By KERRI SANDAINE of the Tribune |

ASOTIN - Superior Court Judge William D. Acey of the Hells Canyon Circuit is fighting for a change in Washington state law so every child involved in a dependency case has an attorney.

Under Washington code, kids age 12 or older have the option to ask for an attorney, but younger children don't have the same legal right. Acey believes the law needs to be rectified.

"Once in every attorney or judge's career, an issue comes along that you can't let go," Acey said. "This is mine. I am going to continue to beat this drum for the sake of the kids."

Acey, who presides over child welfare cases in Asotin, Garfield and Columbia counties, had a long-standing policy of appointing legal representation for every youngster who was removed from parental care for alleged abuse or neglect. The Hells Canyon Circuit was the only court in the state with such a policy.

The Asotin County commissioners recently passed a resolution that says funding for attorney appointments for children in dependency cases will now be provided on a case-by-case basis and not as a blanket rule. The commissioners said lack of discretionary funding, new case load limits for indigent defense and reduced revenues prompted the resolution.

Acey says he understands why the change was made, but he is so committed to having legal representation for all kids, regardless of age, that he is working with a statewide group to make it mandatory in every county. He believes the funding issue will work itself out, just as it did when defendants charged with felonies at the state level were given public defenders.

No estimate on how much it would cost has been given, and a funding source for such a mandate has not been identified. Acey believes it would save money in the long run. He cited a national study that says providing attorneys for foster children has significantly reduced children's time in foster care and increased their chances of finding a permanent home.

On the local level, Asotin County spent \$8,971 on court-appointed attorneys for children in dependency cases in 2011. The attorneys are paid \$75 per hour for their work. In 2012, the budget line item jumped to \$32,413, and through September of this year, \$18,035 has been spent on attorneys representing children in dependency cases.

Acey is on the Legislative Workgroup on Legal Representation for Youth in the Dependency System, spearheaded by Rep. Roger Goodman, D-Kirkland, former State Supreme Court Justice Bobbe Bridge and attorney Casey Trupin from Columbia Legal Services. He spoke at a national conference in Seattle last summer on the right to counsel for abused and neglected children, and earlier this month he testified telephonically before the Joint House Judiciary, Early Learning and Human Services Committees in Olympia.

"Should your ability to have a lawyer hinge on where you live?" Acey said of his involvement. "Lawyer by geography makes no sense at all."

Before the conference, the judge gathered feedback from stakeholders in this area by asking them whether appointing attorneys for every child makes a difference. According to the responses provided to the Tribune by Acey, some believe it's beneficial and a worthwhile use of taxpayer dollars. Others said it bogs down the system, the money could be better spent and attorneys are sometimes representing children too young to convey their wishes.

Tina Kernan, a children's attorney for Asotin and Garfield counties, said all kids have legal rights that should be guarded, regardless of age.

"I also feel that appointing an attorney for the child provides the foster parents additional resources to help the children in their care," Kernan wrote.

Clarkston attorney Rick Laws, who used to represent the state in dependency cases, said appointing an attorney in every case sounds great at first glance, but it was a huge let down for him.

"Clearly, children over 12 should be appointed an attorney to help them express their wishes in dependency cases. I even believe this age could be lowered in many cases, maybe to 7 or 8. But children under that age are in all likelihood too young to be able to knowingly exercise this right," Laws wrote.

In her response, Catherine Enright, a Court Appointed Special Advocate supervisor in Asotin and Garfield counties, told the judge she has seen first-hand how beneficial it can be to have an attorney appointed to every child's case. While CASA volunteers are sometimes from the legal field, most are not familiar with the law, she said, and the child's attorney can file motions and request hearings.

Sheila McDougall, a senior social worker for the Department of Social and Health Services in Asotin and Garfield counties, believes the money could be better spent.

"The attorneys who have been appointed rarely make contact with the child, child's caretaker or the social worker, so they have no independent knowledge of the case," McDougall wrote.

"My preference would be to discontinue the appointment of attorneys to represent children," wrote Tim Sharkey, a DSHS case worker in Asotin and Garfield counties. "I believe it adds another unnecessary layer of litigation to an already overburdened legal process. I believe CASA is more than adequate towards ensuring that the children's interests are being heard."

The way the system works is if a child is alleged to be abused or neglected, he or she can be removed from parental care by law enforcement or by a court order. The child typically goes into foster care or to relatives who meet state qualifications. When abuse or neglect is alleged, the state files a dependency action, and a shelter care hearing is conducted within 72 hours. If there is sufficient cause to move forward, a bench trial takes place within 75 days.

There are currently 108 open dependency cases in Asotin and Columbia counties, with the majority in Asotin. Acey presides over all of the cases. He said Child Protective Services bends over backwards with parents to avoid having a child removed from the home.

The Hells Canyon Circuit has the highest reunification rate in the state and is the only jurisdiction to meet all federally required timelines in dependency cases for the last two years, the judge said.

"The vast majority of states provide a lawyer for every child in a dependency case," Acey said. "It's about time Washington got with the program."

---

*Sandaine may be contacted at [kerris@lmtribune.com](mailto:kerris@lmtribune.com) or (208) 848-2264. Follow her on Twitter @newsfromkerri.*

© 2013 The Lewiston Tribune. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.